THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :13104 of 2006

DATED:05-02-2007

Smt. Vandana Veen @ Lakshmi.

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PETITIONER

AND

The State of Andhra Pradesh,
Rep., by its Secretary, Home Department,
Secretariat,
Hyderabad & 7 others.

.....RESPONDENTS

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ORDER:

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Heard the learned counsel for the petitioner as well as the learned counsel appearing for the respondents 2 and 3.

2. Petitioner seeks a writ of mandamus declaring the action of the 2nd respondent in refusing to initiate criminal proceedings on the complaint (CCSR No.810 of 2006) filed by the petitioner against the respondents 4 to 7, as illegal and contrary to law.

3. It is stated that the petitioner filed a complaint under Section 190 r/w 156 (c) Cr.P.C. regarding commission of offences under Sections 302, 328, 336, 339, 344 & 348 r/w 34 IPC.

4. A perusal of the said complaint goes to show it was not filed under Section 200 Cr.P.C. but however the complaint was not returned for the proper provision of law. The complaint discloses that the petitioner married the 4th respondent herein and three days after their marriage she was sent to her native place. The 4th respondent was arrayed as the 1st accused and the respondents 5 to 8 were arrayed as accused 2 to 5 in the said complaint. The said allegations have been made against the accused 1 to 3, and the accused 4 and 5 are

the respondents 7 and 8, and they being the superior officers did not allow her to lodge a complaint and to refer the case as a medico-legal case. It is stated that the accused 1 and 2 administered poison after beating her and that a cognizable offence has been committed by them.

5. I am not inclined to express any opinion with regard to various allegations made against the accused. It is stated that the complaint was unnecessarily returned several times for trivial things and it was finally returned on 21-03-2006 for furnishing the fathers' names of the accused 4 and 5. It is stated that the petitioner does not know the fathers' names of the accused 4 and 5 and it may not be just and proper for the learned Magistrate to return the complaint for the sake of furnishing the fathers' names of the accused though they have described their post and residential address correctly.

6. It is stated that for the purpose of taking cognizance after examining the complainant and other witnesses it is for the learned Magistrate, either to take cognizance or to take appropriate action as contemplated under Section 200 r/w
190(a) Cr.P.C., and if the learned Magistrate comes to the conclusion that the accused committed a cognizable offence it is for him to take cognizance under Section 190(a) Cr.P.C. and if, after considering the statements on oath (if any) of the complainant and of the other witnesses and the result of inquiry or investigation (if

any) under Section 202, the Magistrate is of the opinion that there is no sufficient ground for proceeding, he shall dismiss the complaint, and in every such case he shall briefly record his reasons for so doing.

7. It is stated that without taking recourse under Sections 200 to 203 r/w 190 Cr.P.C., returning the complaint for want of fathers' names of some of the accused may not be just and proper.

8. Counter has been filed on behalf of the respondents 2 and 3 stating that not only the provisions of the Code of Criminal Procedure but also the rules framed thereunder apart from the directives of the High Court that were framed for annual inspection of the subordinate Courts, require the name, parentage, residence of the accused including age, caste, in order to determine whether the accused person is minor or major and also to determine whether any special provisions of special enactments like S.C./S.T. Act, Juvenile Justice Act are to be applied or not. It is stated that the complainant has to furnish the entire descriptive particulars of the parties as required under Sections 61,70, 82, 83 & 87 Cr.P.C. It is further stated that the said provisions of law are made for strict compliance which renders assistance to the Court in securing the presence of the accused which is one of the important steps in criminal justice system to proceed further and to put the accused for appropriate examinations either under Section 251 or 239 Cr.P.C. to inform the substance

of the accusation levelled against the accused and to proceed with the trial against the accused. It is further stated that the aforesaid provisions of law mandates to insist the complete descriptive particulars of the accused such as name of the accused, parentage and residence in the complaints that are filed directly before the Court of law, but the complainant has not complied with the same.

9. I am of the opinion that when the complainant categorically states that he does not know the fathers' names of the accused 4 and 5 and when the known description has been given as 4th accused, Lieutenant Colonel and his residential address, and the 5th accused, Captain and his residential address, it may not be just and proper for the learned Magistrate in not entertaining the complaint. If any other legal mandates have not been complied with it is always open for returning the complaint but having regard to the facts and circumstances, the petitioner is permitted to represent the returned complaint furnishing the fathers' names of the respondents 7 and 8 herein and if she do not know the fathers' names till today, she can represent the said complaint immediately, and if the complainant fulfills the other provisions of law the same may be proceeded with in accordance with law for taking appropriate action against the concerned persons/accused.

10. Writ Petition is accordingly disposed of. No order

as to costs.

V.ESWARAIAH,J

05th February, 2007.

Note:

Furnish C.C. within three days.

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